

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

EMORY STEVE BROWN,	*	CASE NUMBER:
	*	3:05 CV 0681-MHT-CSC
Plaintiff,	*	
	*	
v.	*	
	*	
CLAIMS MANAGEMENT, INC.,	*	
	*	
Defendant.	*	

DEFENDANT CLAIMS MANAGEMENT, INC.'S MOTION  
TO COMPEL AND FOR SANCTIONS  
AGAINST THE THIRD-PARTY PHYSICIAN,  
MITCHELL SHIRAH, M.D.

COMES NOW the defendant, Claims Management, Inc. (hereinafter referred to as the "defendant CMI") and moves this court for an order compelling the non-party physician, Mitchell Shirah, M.D. of Roanoke Family Care, to produce documents pursuant to an appropriately executed and properly presented HIPAA release seeking to obtain the medical records for Mr. Emory Steve Brown. As grounds for this motion, the defendant CMI shows as follows:

1.

The defendant CMI obtained from the plaintiff an authorization for the release of medical records which complies with the Heath Insurance Portability and Accountability Act of 1996, 45 C.F.R. § 165.508(c) (see Exhibit "A").

2.

The defendant CMI presented the properly executed HIPAA release to Dr. Shirah on September 7, 2005 (see Exhibit "B").

3.

More than 30 days passed and the records were not produced as requested.

4.

On October 11, 2005, the defendant CMI advised Dr. Shirah of his failure to present medical records (see Exhibit "C").

5.

It is extremely important to the defendant CMI's ability to appropriately prepare this case for ultimate disposition to obtain and review any and medical records maintained by Dr. Shirah on the plaintiff. According to Rule 37 of the Federal Rules of Civil Procedure, this court has the power to order the non-party physician to produce the records.

WHEREFORE, the defendant CMI respectfully requests that this court will enter an order requiring Dr. Shirah to produce medical and billing records in response to the properly presented HIPAA release within five days of the date of this order. Additionally, the defendant CMI requests that this court will award them costs for bringing this motion in the amount of \$250.00.

This 18<sup>th</sup> day of January, 2006.

Respectfully submitted,  
CARLOCK, COPELAND, SEMLER  
& STAIR, LLP

BY:     /s/ Jeffrey A. Brown      
Jeffrey A. Brown  
Attorney Code: BRO132  
Attorneys for Defendant, Claims  
Management, Inc.  
Post Office Box 139  
Columbus, Georgia 31902-0139  
(706) 653-6109

CERTIFICATE OF SERVICE

I, Jeffrey A. Brown, do hereby certify that I am of counsel for the defendant Claims Management, Inc. and that I have served a copy of the above and foregoing DEFENDANT CLAIMS MANAGEMENT, INC.'S MOTION TO COMPEL AND FOR SANCTIONS AGAINST THE NON-THIRD-PARTY PHYSICIAN, MITCHELL SHIRAH, M.D. upon all counsel of record by depositing a true copy of same in the United States mail, postage prepaid, in an envelope addressed to opposing counsel as follows:

John A. Tinney, Esquire  
Post Office Box 1340  
Roanoke, Alabama 36274

Mitchell Shirah, M.D.  
ROANOKE FAMILY CARE  
Post Office Box 1397  
Roanoke, Alabama 36274  
(via Certified Mail, Return Receipt Requested)

This 18<sup>th</sup> day of January, 2006.

/s/ Jeffrey A. Brown  
Of Counsel for Defendant, Claims  
Management, Inc.